

AMENDED IN ASSEMBLY AUGUST 18, 2015

AMENDED IN ASSEMBLY JUNE 17, 2015

SENATE BILL

No. 602

Introduced by Senator Monning

February 27, 2015

An act to amend Section 10089.38 of the Insurance Code, and to amend Sections 5899 and 8503 of the Streets and Highways Code, relating to seismic safety, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 602, as amended, Monning. Seismic safety: California Earthquake Authority.

Existing law establishes the California Earthquake Authority, which is authorized to transact insurance in the state as necessary to sell policies of basic residential earthquake insurance, as provided. Existing law provides that a public purpose will be served by a voluntary contractual assessment program that provides the legislative body of a public agency with the authority to finance the installation of seismic strengthening improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property. For purposes of financing the installation of seismic strengthening improvements, "public agency" means a city, county, or city and county.

This bill would include the California Earthquake Authority as part of the definition of "public agency" for this purpose.

The Improvement Bond Act of ~~1915~~, 1915 provides authority for the legislative body of any city to determine that bonds may be issued to pay for specified works of improvement.

This bill would include the California Earthquake Authority as part of the definition of "city" or "municipality" for purposes of this act.

Existing law authorizes the Earthquake Loss Mitigation Fund, a continuously appropriated fund, to be applied to supply grants and loans or loan guarantees to dwelling owners who wish to retrofit their homes to protect against earthquake damage.

This bill would also authorize the money in the fund to be used to fund seismic strengthening improvements permanently fixed to residential, commercial, industrial, agricultural, or other real property; *property and an account for related loan losses, and to acquire debt obligations issued to fund these seismic strengthening improvements, thereby making an appropriation. The bill would also require the California Earthquake Authority to establish a loan loss reserve account in the fund for the deposit of moneys to be expended for loan losses incurred in connection with financing seismic strengthening improvements.*

This bill would (1) revise or waive certain notice and reporting requirements generally applicable to contractual assessments for contractual assessments that finance seismic strengthening improvements, (2) absent specified conditions, presume statewide scope of any California Earthquake Authority programs of contractual assessments for seismic strengthening improvements, and (3) provide for payment of assessments pursuant to the contractual payment schedule for any California Earthquake Authority program, notwithstanding any bonds secured by those assessments. The bill would require the California Earthquake Authority, prior to entering into a voluntary contractual assessment with a property owner to finance seismic strengthening improvements, to disclose the terms and conditions of the voluntary contractual assessment, and to notify the property owner, in writing, that he or she may be required to pay the remaining principal balance of the voluntary contractual assessment when he or she refinances or sells the property. The bill would specify that the California Earthquake Authority shall require each property owner to sign a document acknowledging his or her receipt of this written disclosure. The bill would also require that seismic strengthening improvements that are permanently fixed to real property and that are financed pursuant to the program comply with all applicable state and local building standards.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 10089.38 of the Insurance Code is amended to read:

10089.38. ~~(a)~~—Upon the development and implementation of an economical system satisfactory to the board and the commissioner to prevent misapplication of mitigation funds, money in the Earthquake Loss Mitigation Fund may be applied to all of the following:

~~(1)~~

(a) To supply grants and loans or loan guarantees to dwelling owners who wish to retrofit their homes to protect against earthquake damage.

~~(2)~~

(b) To fund seismic strengthening improvements *and a loan loss reserve account* as authorized by Section 5899 of the Streets and Highways Code.

~~(3)~~

(c) To acquire debt obligations issued to fund seismic strengthening improvements funded pursuant to ~~paragraph (2)~~ *subdivision (b)*.

SEC. 2. Section 5899 of the Streets and Highways Code is amended to read:

5899. (a) The Legislature finds and declares all of the following:

(1) It is the intent of the Legislature to address seismic safety needs throughout this state by permitting voluntary individual efforts to improve the seismic safety of homes and buildings. The Legislature further intends that this chapter should be used to finance the installation of seismic strengthening improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property, including, but not limited to, the seismic strengthening of cripple walls and sill plate anchorage of light, wood-framed buildings.

(2) The upfront cost of making residential, commercial, industrial, agricultural, or other real property more seismically safe prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those strengthening improvements, it is necessary to authorize an alternative procedure for authorizing

1 assessments to finance the cost of seismic strengthening
2 improvements.

3 (3) A public purpose will be served by a voluntary contractual
4 assessment program that provides the legislative body of any public
5 agency with the authority to finance the installation of seismic
6 strengthening improvements that are permanently fixed to
7 residential, commercial, industrial, agricultural, or other real
8 property.

9 (b) For purposes of this section, the following terms shall have
10 the following meanings:

11 (1) For the purpose of financing the installation of seismic
12 strengthening improvements, “public agency” means a city, county,
13 or city and county, or the California Earthquake Authority. The
14 definition of “city” in Section 5005 shall not apply to this
15 paragraph.

16 (2) “Seismic strengthening improvements” means permanent
17 seismic safety improvements fixed to residential, commercial,
18 industrial, agricultural, or other real property.

19 (c) The legislative or governing body of a public agency may
20 designate an area, in the manner provided pursuant to Section
21 5898.20, within which authorized public agency officials and
22 property owners may enter into voluntary contractual assessments
23 to finance the installation of seismic strengthening improvements
24 that are permanently fixed to real property pursuant to this chapter.

25 (d) For purposes of establishing a voluntary contractual
26 assessment program relating to seismic strengthening
27 improvements, the legislative *or governing* body shall make the
28 determinations required pursuant to Section 5898.20 by adopting
29 a resolution indicating its intention to do so. The resolution of
30 intention shall identify the kinds of seismic strengthening
31 improvements that may be financed and shall include all of the
32 information that is required pursuant to subdivision (b) of Section
33 5898.20, including, but not limited to, directing an appropriate
34 public agency official to prepare a report pursuant to Section
35 5898.22.

36 (e) For purposes of the report required pursuant to Section
37 5898.22, relating to a voluntary contractual assessment program
38 for seismic strengthening improvements, the designated public
39 agency official shall satisfy the requirements of paragraph (1) of
40 subdivision (c) of Section 5898.22 by identifying the types of

1 seismic strengthening improvements that may be financed through
2 the use of contractual assessments.

3 (f) Notwithstanding any other provision of this chapter, upon
4 the written consent of an authorized public agency official, the
5 proposed arrangements for financing the program pertaining to
6 the installation of seismic strengthening improvements that are
7 permanently fixed to real property may authorize the property
8 owner to purchase directly the related equipment and materials for
9 the installation of seismic strengthening improvements and to
10 contract directly for the installation of seismic strengthening
11 improvements that are permanently fixed to the property owner's
12 residential, commercial, industrial, agricultural, or other real
13 property.

14 (g) Notwithstanding any other provision of this chapter, and
15 unless otherwise specified in the resolution of intention adopted
16 pursuant to subdivision (d) and the report required by Section
17 5898.22, the area within which the California Earthquake Authority
18 and property owners may enter into voluntary contractual
19 assessments pursuant to this chapter to finance the installation of
20 seismic strengthening improvements that are permanently fixed
21 to real property shall include the entire state. The California
22 Earthquake Authority shall not be required to designate, describe,
23 or provide a map of that area in the resolution of intention adopted
24 pursuant to subdivision (d), the report required by Section 5898.22,
25 or otherwise, unless that area covers an area smaller than the entire
26 state.

27 (h) Notwithstanding any other provision of this chapter or any
28 other law, with regard to the establishment of a voluntary
29 contractual assessment program pursuant to this chapter to finance
30 the installation of seismic strengthening improvements that are
31 permanently fixed to real property, the California Earthquake
32 Authority shall be required to publish the notice required by
33 subdivision (a) of Section 5898.24 solely in a newspaper of general
34 circulation within the County of Sacramento.

35 (i) *The California Earthquake Authority shall establish a loan*
36 *loss reserve account in the Earthquake Loss Mitigation Fund,*
37 *established pursuant to Section 10089.37 of the Insurance Code,*
38 *for the deposit of moneys to be expended for loan losses incurred*
39 *in connection with financing seismic strengthening improvements*
40 *authorized by this section. The California Earthquake Authority*

1 shall develop guidelines and a methodology for determining
2 adequate funding levels for the account sufficient to cover loan
3 losses related to the implementation of the voluntary contractual
4 assessment program pursuant to this section.

5 (j) Prior to entering into a voluntary contractual assessment
6 with a property owner to finance seismic strengthening
7 improvements under this section, the California Earthquake
8 Authority shall disclose the terms and conditions of the voluntary
9 contractual assessment and notify the property owner, in writing,
10 that he or she may be required to pay the remaining principal
11 balance of the voluntary contractual assessment when he or she
12 refinances or sells the property. The California Earthquake
13 Authority shall require each property owner to sign a document
14 acknowledging his or her receipt of this written disclosure.

15 (k) The installation of seismic strengthening improvements that
16 are permanently fixed to real property and that are financed
17 pursuant to this chapter shall comply with all applicable state and
18 local building standards.

19 ~~(i)~~

20 (l) Subdivision (b) of Section 5898.24 shall not apply to a
21 voluntary contractual assessment program established pursuant to
22 this chapter solely to finance the installation of seismic
23 strengthening improvements that are permanently fixed to real
24 property.

25 ~~(j)~~

26 (m) Notwithstanding any other provision of this chapter, the
27 Improvement Bond Act of 1915 (Division 10 (commencing with
28 Section 8500)), or any other law, any voluntary contractual
29 assessment entered into with respect to a program established by
30 the California Earthquake Authority under this chapter shall be
31 made under the payment schedule set forth in the contract providing
32 for that voluntary contractual assessment, whether or not any bonds
33 secured by that voluntary contractual assessment have been issued.

34 SEC. 3. Section 8503 of the Streets and Highways Code is
35 amended to read:

36 8503. "City" includes counties, cities and counties and public
37 corporations, districts and agencies, and the California Earthquake
38 Authority.

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